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Virginia, April 20, 1909), that a decree of divorce from bed and board, with perpetual separation, in the terms provided by § 12, c. 64, Code (Code, 1906, § 2927), does not bar the curtesy of the husband, against whom such decree is pronounced, in lands belonging to the wife at the time of the decree; but upon lands thereafter acquired by her it operates like an absolute divorce, thus, as to such property, barring claim to curtesy. *Quære*, may not the court by virtue of § 11, c. 64, Code (Code, 1906, § 2927), in granting such divorce, bar, by a special order in the decree, the right of curtesy or dower in the existing real estate of the parties, or either of them?

Curtesy—Estates Subject to.—It is held in *Depue v. Miller*, 64 S. E. 740 (Supreme Court of Appeals of West Virginia, Feb. 3, 1909), that a husband has an estate by the curtesy, after the death of his wife, in lands which he had voluntarily settled upon her, if he did not, in express terms or by plain implication, relinquish such right in the instrument of conveyance. As the husband's estate by the curtesy in his wife's real estate is given by the law for reasons of public policy, and not created by contract between the husband and wife, no presumption of intention to preclude it arises from the mere fact of a conveyance from the former to the latter, however it may have been effected.

Railroads—Obstructing Highway—Evidence.—As held in *State v. Baltimore & O. R. Co.*, 64 S. E. 735 (Supreme Court of Appeals of West Virginia, April 27, 1909), upon an indictment therefor a railroad company cannot be convicted of the offense of obstructing a public road at a railroad crossing, by a freight train in charge of its servants, when the evidence shows but a single offense, and that such obstruction was in violation of the rules of such company and against its positive instructions to the conductor in charge of such train.

Torts—Actions—Evidence—Weight and Sufficiency—Burden of Proof.—In an action for tort, the plaintiff bearing the burden of proof, a verdict for him cannot be found on evidence which affords mere conjecture that the liability exists, and leaves the minds of jurors in equipoise and reasonable doubt. The evidence must generate an actual rational belief in the existence of the disputed fact, as held in *Moore v. West Virginia Heat & Light Co.*, 64 S. E. 721 (Supreme Court of Appeals of West Virginia, April 27, 1909). and where a liability is asserted on the ground of tort, the plaintiff bears the burden of proof of the fact on which the liability rests, and the burden to disprove such fact does not shift to the shoulders of the defendant until plaintiff's evidence shows a state of facts sufficient to establish a rational belief of the existence of such fact.